

IN RE: PETITION FOR ZONING VARIANCE  
N/S Othoridge Road, NE/Corner  
Westbury Road  
(128 Othoridge Road) Othoridge  
9th Election District  
4th Councilmanic District  
James F. Carey, et ux  
Petitioners

BEFORE THE  
ZONING COMMISSIONER  
OF BALTIMORE COUNTY  
Case No. 90-470-A

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance to permit a rear yard setback of 5 feet in lieu of the required 22.5 feet for a proposed open projection (deck) and to permit a proposed accessory structure (swimming pool) to be located in the side yard of a corner lot in lieu of the required rear one-third of the lot farthest removed from any street, all as more particularly described in Petitioner's Exhibit 1.

The Petitioners, by James F. Carey, appeared and testified. There were no Protestants.

Testimony indicated that the subject property, known as 128 Othoridge Road, consists of .23 acres zoned D.R. 5.5 and is improved with a single family dwelling. Petitioners are desirous of constructing a deck off the rear of the existing dwelling and an above-ground swimming pool as depicted in Petitioner's Exhibit 1. Due to the layout of the dwelling and its location on the subject lot, which is pie-shaped and located on a corner, the variances requested are necessary in order to construct the proposed improvements. Testimony and evidence presented indicated that a portion of the proposed deck will replace an existing deteriorated 15-foot by 21-foot concrete patio. Testimony further indicated that the proposed swimming pool cannot be constructed on the east side of the subject property due to the lack of sufficient width and the existence of overhead

wires. Petitioner testified the relief requested will not result in any detriment to the health, safety or general welfare of the community and will further enhance the use of his property.

Based upon the testimony and evidence presented at the hearing, all of which was uncontradicted, in the opinion of the Zoning Commissioner the relief requested sufficiently complies with the requirements of Section 307 of the Baltimore County Zoning Regulations (B.C.Z.R.) and, therefore, should be granted. There is no evidence in the record that the subject variance would adversely affect the health, safety, and/or general welfare of the public. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the requested variance should be granted.

THEREFORE IT IS ORDERED by the Zoning Commissioner for Baltimore County this 15th day of June, 1990 that the Petition for Zoning Variance to permit a rear yard setback of 5 feet in lieu of the required 22.5 feet for a proposed open projection (deck) and to permit a proposed accessory structure (swimming pool) to be located in the side yard of a corner lot in lieu of the required rear one-third of the lot farthest removed from any street, in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject, however, to the following restriction:

- 1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioners would be required to return,

and be responsible for returning, said property to its original condition.

J. Robert Haines  
Zoning Commissioner  
for Baltimore County

JRH:bja

#### PETITION FOR ZONING VARIANCE TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY: 90-470-A

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1802.3.B (211.4), 301.1, 400.1 - To allow a 5 ft. rear setback for an open projection (deck) in lieu of the required 22.5 ft. AND To allow an accessory structure (pool) on a corner lot to be located in the side yard in lieu of the required 1/3 of the rear yard farthest removed from the side street of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (Indicate hardship or practical difficulty)

SEE ATTACHED EXPLANATION

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: \_\_\_\_\_  
(Type or Print Name)  
Signature: \_\_\_\_\_  
Address: \_\_\_\_\_  
City and State: \_\_\_\_\_  
Attorney for Petitioner: \_\_\_\_\_  
(Type or Print Name)  
Signature: \_\_\_\_\_  
Address: \_\_\_\_\_  
City and State: \_\_\_\_\_  
Attorney's Telephone No.: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone No.: \_\_\_\_\_

ORDERED By The Zoning Commissioner of Baltimore County, this 18th day of April, 1990, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building, in Towson, Baltimore County, on the 19th day of June, 1990, at 2:30 o'clock P.M.

J. Robert Haines  
Zoning Commissioner of Baltimore County

ESTIMATED LENGTH OF HEARING: 1/2 HOUR  
AVAILABLE FOR HEARING: 10:00 AM - 12:00 PM  
REVIEWED BY: \_\_\_\_\_ DATE: 5-30-90

Due to the situation of the existing dwelling on the property, compliance with area regulations creates a practical difficulty. Strict compliance with set-back requirements restricts recreational use of the property as follows:

- o The proposed swimming pool cannot be situated on the east side of the property due to the width and slope of the property and the existence of overhead wires;
- o County regulations require that all swimming pools be enclosed by a 48" fence. The west side of the property is currently enclosed by a 5'6" fence erected approximately 15 years ago by the previous owner. The fence is in disrepair. Replacement of the fence is proposed for aesthetic purposes and to provide the required security around the pool; and
- o The secondary entrances to the dwelling are located in the rear. Therefore, construction of the deck in any location other than the rear of the dwelling is impractical. The rear of the property currently contains a 15' x 21' concrete patio which is in disrepair. The proposed deck will not come any closer to the rear property line than the existing patio.

Thus, variance from the area regulations will permit recreational uses of the property enjoyed by other property owners.

Zoning Description  
Beginning at a point on the north side of Othoridge Road which is 69' wide at the distance of 34' east of the centerline of the nearest improved intersecting street, Westbury Road, which is 50' wide. Being Lot #1, Block #3, Section #1 in the subdivision of Orchard Hills as recorded in Baltimore County Plat Book C.L.B.#20, Folio 119 containing approximately 9985 square feet. Also known as #128 Othoridge Road and located in the #9 election district.

Baltimore County  
Zoning Commissioner  
County Office Building  
111 West Chesapeake Avenue  
Towson, Maryland 21204

Account: R-001-6150  
Number: 1938

Date: 3/30/90

Public Hearing Fees: QTY PRICE  
010 - ZONING VARIANCE (1RL) 1 X \$35.00  
TOTAL: \$35.00

LAST NAME OF OWNER: CAREY

Cashier Validation: \_\_\_\_\_

Please make checks payable to: Baltimore County

#### CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Towson, Maryland

District: 9th Date of Posting: May 18 - 90  
Posted for: Variance  
Petitioner: James F. Carey, et ux  
Location of property: N/S of Othoridge Road - N.E.C. of Westbury Road  
Road: 128 Othoridge Road  
Location of Sign: Along front of 128 Othoridge Road  
Remarks: \_\_\_\_\_  
Posted by: J. Robert Haines Date of return: May 25 - 90  
Number of Signs: 1

#### CERTIFICATE OF PUBLICATION

TOWSON, MD., May 15, 1990  
THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on May 10, 1990.

THE JEFFERSONIAN,  
S. Zeke Orlean  
Publisher

#### CERTIFICATE OF PUBLICATION

TOWSON, MD., May 10, 1990  
THIS IS TO CERTIFY, that the annexed advertisement was published in TOWSON TIMES, a weekly newspaper published in Towson, Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on May 9, 1990.

TOWSON TIMES,  
S. Zeke Orlean  
Publisher

PO 104560



Baltimore County  
Zoning Commissioner  
County Office Building  
111 West Chesapeake Avenue  
Towson, Maryland 21204

Account: R-001-6150  
Number: 2663

receipt

90-470

Date

6/05/90

M9000885

	QTY	PRICE
PUBLIC HEARINGS FEES		
000 -POSTING SIGNS / ADVERTISING 1	1	\$137.65
LAST NAME OF OWNER: CAREY		
TOTAL:		\$137.65

8 135\*\*\*\*\*137651a 6068F  
Please make checks payable to: Baltimore County

Cashier Validation:

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3353

J. Robert Haines  
Zoning Commissioner

DATE 5-30-90



Dennis F. Rasmussen  
County Executive

Mr. & Mrs. James F. Carey  
128 Othoridge Road  
Lutherville, Maryland 21093

Re: Petition for Zoning Variance  
CASE NUMBER: 90-470-A  
N/S Othoridge Road, NE Corner Westbury Road  
128 Othoridge Road  
9th Election District - 4th Councilmanic  
Petitioner(s): James F. Carey, et ux  
HEARING: TUESDAY, JUNE 5, 1990 at 2:30 p.m.

Dear Mr. & Mrs. Careys:

Please be advised that \$137.65 is due for advertising and posting of the above captioned property.

THIS FEE MUST BE PAID AND THE ZONING SIGN & POST SET(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT ISSUE. DO NOT REMOVE THE SIGN & POST SET(S) FROM THE PROPERTY UNTIL THE DAY OF THE HEARING.

Please make your check payable to Baltimore County, Maryland. Bring the check and the sign & post set(s) to the Zoning Office, County Office Building, 111 W. Chesapeake Avenue, Room 113, Towson, Maryland fifteen (15) minutes before your hearing is scheduled to begin.

Be advised that should you fail to return the sign & post set(s), there will be an additional \$50.00 added to the above amount for each such set not returned.

Very truly yours,

J. Robert Haines  
J. ROBERT HAINES  
ZONING COMMISSIONER

JRHigs

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3353

J. Robert Haines  
Zoning Commissioner

April 26, 1990



Dennis F. Rasmussen  
County Executive

# NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building located at 111 W. Chesapeake Avenue in Towson, Maryland 21204 as follows:

Petition for Zoning Variance  
CASE NUMBER: 90-470-A  
N/S Othoridge Road, NE Corner Westbury Road  
128 Othoridge Road  
9th Election District - 4th Councilmanic  
Petitioner(s): James F. Carey, et ux  
HEARING: TUESDAY, JUNE 5, 1990 at 2:30 p.m.

Variance: To allow a 5 ft. rear setback for an open projection (deck) in lieu of the required 22.5 ft. AND to allow an accessory structure (pool) on a corner lot to be located in the side yard in lieu of the required 1/3 of the rear yard farthest removed from the side street.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. Robert Haines  
J. ROBERT HAINES  
Zoning Commissioner of  
Baltimore County

cc: Mr. & Mrs. Carey

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3353

J. Robert Haines  
Zoning Commissioner

June 13, 1990



Dennis F. Rasmussen  
County Executive

Mr. & Mrs. James F. Carey  
128 Othoridge Road  
Lutherville, Maryland 21093

RE: PETITION FOR ZONING VARIANCE  
N/S Othoridge Road, NE/Corner Westbury Road  
(128 Othoridge Road)  
9th Election District - 4th Councilmanic District  
James F. Carey, et ux - Petitioners  
Case No. 90-470-A

Dear Mr. & Mrs. Carey:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Zoning Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 887-3391.

Very truly yours,

J. Robert Haines  
J. ROBERT HAINES  
Zoning Commissioner  
for Baltimore County

JRH:bjs

cc: People's Counsel

File

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3353

J. Robert Haines  
Zoning Commissioner

May 23, 1990



Dennis F. Rasmussen  
County Executive

Mr. & Mrs. James F. Carey  
128 Othoridge Road  
Lutherville, MD 21093

RE: Item No. 340, Case No. 90-470-A  
Petitioner: James F. Carey, et ux  
Petition for Zoning Variance

Dear Mr. & Mrs. Carey:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

IT WOULD BE APPRECIATED IF YOU WOULD RETURN YOUR WRITTEN COMMENTS TO MY OFFICE, ATTENTION JULIE WINIARSKI. IF YOU HAVE ANY QUESTIONS REGARDING THIS, PLEASE CONTACT HER AT 887-3391.

Very truly yours,

James E. Dyer  
JAMES E. DYER  
Chairman  
Zoning Plans Advisory Committee

JED:jw

Enclosures

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3353

J. Robert Haines  
Zoning Commissioner



Dennis F. Rasmussen  
County Executive

Your petition has been received and accepted for filing this 4th day of April, 1990.

J. Robert Haines  
J. ROBERT HAINES  
ZONING COMMISSIONER

Received By:

James E. Dyer  
Chairman  
Zoning Plans Advisory Committee

Petitioner: James F. Carey, et ux

Petitioner's Attorney:

# BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE

TO: J. Robert Haines  
Zoning Commissioner  
DATE: April 19, 1990  
FROM: Pat Keller, Deputy Director  
Office of Planning and Zoning  
SUBJECT: James F. Carey, Item No. 340

In reference to the Petitioner's request, staff offers no comments.

If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3211.

PK/JL/cmm

Baltimore County  
Department of Public Works  
Bureau of Traffic Engineering  
County Office Building, Suite 405  
Towson, Maryland 21204  
(301) 887-3554

April 6, 1990



Dennis F. Rasmussen  
County Executive

Mr. J. Robert Haines  
Zoning Commissioner  
County Office Building  
Towson, Maryland 21204

Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 324, 329, 330, 331, 334, 335, 336, 337, 339, 340, 341, and 342.

Very truly yours,

Michael S. Flanigan  
Michael S. Flanigan  
Traffic Engineer Assoc. II

MSF/lvw

RECEIVED  
APR 16 1990

ZONING OFFICE

